

amendment described in § 4.35(f) of this chapter is filed.

(4) If the Commission rejects or dismisses an application pursuant to the provisions of § 4.32 of this chapter, the application may not be refiled after the new license application filing deadline specified in § 16.9(b)(1).

(c) *Final amendments.* All amendments to an application, including the final amendment, must be filed with the Commission and served on all competing applicants no later than the date specified in the notice issued under paragraph (d)(2).

(d) *Commission notice.* (1) Upon acceptance of an application for a new license or a nonpower license, the Commission will give notice of the application and of the dates for comment, intervention, and protests by:

(i) Publishing notice in the FEDERAL REGISTER;

(ii) Publishing notice once every week for four weeks in a daily or weekly newspaper published in the county or counties in which the project or any part thereof or the lands affected thereby are situated; and

(iii) Notifying appropriate Federal, state, and interstate resource agencies and Indian tribes by mail.

(2) Within 60 days after the new license application filing deadline, the Commission will issue a notice on the processing deadlines established under § 4.32 of this chapter, estimated dates for further processing deadlines under § 4.32 of this chapter, deadlines for complying with the provisions of § 4.36(d)(2) (ii) and (iii) of this chapter in cases where competing applications are filed, and the date for final amendments and will:

(i) Publish the notice in the FEDERAL REGISTER;

(ii) Provide the notice to appropriate Federal, state, and interstate resource agencies and Indian tribes; and

(iii) Serve the notice on all parties to the proceedings pursuant to § 385.2010 of this chapter.

(3) Where two or more mutually exclusive competing applications have been filed for the same project, the final amendment date and deadlines for complying with the provisions of § 4.36(d)(2) (ii) and (iii) of this chapter established pursuant to the notice

issued under paragraph (d)(2) of this section will be the same for all such applications.

(4) The provisions of § 4.36(d)(2)(i) of this chapter will not be applicable to applications filed pursuant to this section.

§ 16.10 Information to be provided by an applicant for new license: Filing requirements.

(a) *Information to be supplied by all applicants.* All applicants for a new license under this part must file the following information with the Commission:

(1) A discussion of the plans and ability of the applicant to operate and maintain the project in a manner most likely to provide efficient and reliable electric service, including efforts and plans to:

(i) Increase capacity or generation at the project;

(ii) Coordinate the operation of the project with any upstream or downstream water resource projects; and

(iii) Coordinate the operation of the project with the applicant's or other electrical systems to minimize the cost of production.

(2) A discussion of the need of the applicant over the short and long term for the electricity generated by the project, including:

(i) The reasonable costs and reasonable availability of alternative sources of power that would be needed by the applicant or its customers, including wholesale customers, if the applicant is not granted a license for the project;

(ii) A discussion of the increase in fuel, capital, and any other costs that would be incurred by the applicant or its customers to purchase or generate power necessary to replace the output of the licensed project, if the applicant is not granted a license for the project;

(iii) The effect of each alternative source of power on:

(A) The applicant's customers, including wholesale customers;

(B) The applicant's operating and load characteristics; and

(C) The communities served or to be served, including any reallocation of costs associated with the transfer of a license from the existing licensee.

(3) The following data showing need and the reasonable cost and availability of alternative sources of power:

(i) The average annual cost of the power produced by the project, including the basis for that calculation;

(ii) The projected resources required by the applicant to meet the applicant's capacity and energy requirements over the short and long term including:

(A) Energy and capacity resources, including the contributions from the applicant's generation, purchases, and load modification measures (such as conservation, if considered as a resource), as separate components of the total resources required;

(B) A resource analysis, including a statement of system reserve margins to be maintained for energy and capacity; and

(C) If load management measures are not viewed as resources, the effects of such measures on the projected capacity and energy requirements indicated separately;

(iii) For alternative sources of power, including generation of additional power at existing facilities, restarting deactivated units, the purchase of power off-system, the construction or purchase and operation of a new power plant, and load management measures such as conservation:

(A) The total annual cost of each alternative source of power to replace project power;

(B) The basis for the determination of projected annual cost; and

(C) A discussion of the relative merits of each alternative, including the issues of the period of availability and dependability of purchased power, average life of alternatives, relative equivalent availability of generating alternatives, and relative impacts on the applicant's power system reliability and other system operating characteristics; and

(iv) The effect on the direct providers (and their immediate customers) of alternate sources of power.

(4) If an applicant uses power for its own industrial facility and related operations, the effect of obtaining or losing electricity from the project on the operation and efficiency of such facil-

ity or related operations, its workers, and the related community.

(5) If an applicant is an Indian tribe applying for a license for a project located on the tribal reservation, a statement of the need of such tribe for electricity generated by the project to foster the purposes of the reservation.

(6) A comparison of the impact on the operations and planning of the applicant's transmission system of receiving or not receiving the project license, including:

(i) An analysis of the effects of any resulting redistribution of power flows on line loading (with respect to applicable thermal, voltage, or stability limits), line losses, and necessary new construction of transmission facilities or upgrading of existing facilities, together with the cost impact of these effects;

(ii) An analysis of the advantages that the applicant's transmission system would provide in the distribution of the project's power; and

(iii) Detailed single-line diagrams, including existing system facilities identified by name and circuit number, that show system transmission elements in relation to the project and other principal interconnected system elements. Power flow and loss data that represent system operating conditions may be appended if applicants believe such data would be useful to show that the operating impacts described would be beneficial.

(7) If the applicant has plans to modify existing project facilities or operations, a statement of the need for, or usefulness of, the modifications, including at least a reconnaissance-level study of the effect and projected costs of the proposed plans and any alternate plans, which in conjunction with other developments in the area would conform with a comprehensive plan for improving or developing the waterway and for other beneficial public uses as defined in section 10(a)(1) of the Federal Power Act.

(8) If the applicant has no plans to modify existing project facilities or operations, at least a reconnaissance-level study to show that the project facilities or operations in conjunction with other developments in the area would conform with a comprehensive

plan for improving or developing the waterway and for other beneficial public uses as defined in section 10(a)(1) of the Federal Power Act.

(9) A statement describing the applicant's financial and personnel resources to meet its obligations under a new license, including specific information to demonstrate that the applicant's personnel are adequate in number and training to operate and maintain the project in accordance with the provisions of the license.

(10) If an applicant proposes to expand the project to encompass additional lands, a statement that the applicant has notified, by certified mail, property owners on the additional lands to be encompassed by the project and governmental agencies and subdivisions likely to be interested in or affected by the proposed expansion.

(11) The applicant's electricity consumption efficiency improvement program, as defined under section 10(a)(2)(C) of the Federal Power Act, including:

(i) A statement of the applicant's record of encouraging or assisting its customers to conserve electricity and a description of its plans and capabilities for promoting electricity conservation by its customers; and

(ii) A statement describing the compliance of the applicant's energy conservation programs with any applicable regulatory requirements.

(12) The names and mailing addresses of every Indian tribe with land on which any part of the proposed project would be located or which the applicant reasonably believes would otherwise be affected by the proposed project.

(b) *Information to be provided by an applicant who is an existing licensee.* An existing licensee that applies for a new license must provide:

(1) The information specified in paragraph (a).

(2) A statement of measures taken or planned by the licensee to ensure safe management, operation, and maintenance of the project, including:

(i) A description of existing and planned operation of the project during flood conditions;

(ii) A discussion of any warning devices used to ensure downstream public safety;

(iii) A discussion of any proposed changes to the operation of the project or downstream development that might affect the existing Emergency Action Plan, as described in subpart C of part 12 of this chapter, on file with the Commission;

(iv) A description of existing and planned monitoring devices to detect structural movement or stress, seepage, uplift, equipment failure, or water conduit failure, including a description of the maintenance and monitoring programs used or planned in conjunction with the devices; and

(v) A discussion of the project's employee safety and public safety record, including the number of lost-time accidents involving employees and the record of injury or death to the public within the project boundary.

(3) A description of the current operation of the project, including any constraints that might affect the manner in which the project is operated.

(4) A discussion of the history of the project and record of programs to upgrade the operation and maintenance of the project.

(5) A summary of any generation lost at the project over the last five years because of unscheduled outages, including the cause, duration, and corrective action taken.

(6) A discussion of the licensee's record of compliance with the terms and conditions of the existing license, including a list of all incidents of non-compliance, their disposition, and any documentation relating to each incident.

(7) A discussion of any actions taken by the existing licensee related to the project which affect the public.

(8) A summary of the ownership and operating expenses that would be reduced if the project license were transferred from the existing licensee.

(9) A statement of annual fees paid under Part I of the Federal Power Act for the use of any Federal or Indian lands included within the project boundary.

(c) *Information to be provided by an applicant who is not an existing licensee.* An

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applicant that is not an existing licensee must provide:

(1) The information specified in paragraph (a).

(2) A statement of the applicant's plans to manage, operate, and maintain the project safely, including:

(i) A description of the differences between the operation and maintenance procedures planned by the applicant and the operation and maintenance procedures of the existing licensee;

(ii) A discussion of any measures proposed by the applicant to implement the existing licensee's Emergency Action Plan, as described in subpart C of part 12 of this chapter, and any proposed changes;

(iii) A description of the applicant's plans to continue safety monitoring of existing project instrumentation and any proposed changes; and

(iv) A statement indicating whether or not the applicant is requesting the licensee to provide transmission services under section 15(d) of the Federal Power Act.

(d) *Extended deadline for certain applicants.* If an applicant must file an application under § 16.9 within 90 days after July 3, 1989, that applicant may provide the information required in this section within 90 days after the date on which it files the application.

(e) *Inclusion in application.* Except as permitted in paragraph (d), the information required to be provided by this section must be included in the application as a separate exhibit labeled "Exhibit H."

(f) *Filing requirements.* For all applications for new licenses due to be filed with the Commission on or after June 19, 1991, and prior to January 1, 1992, the following number of copies must be submitted to the Commission and served on resource agencies

(1) If the application is hand-delivered to the Commission, as by messenger or courier service, only an original and five copies of the application need be delivered to the Secretary, but the filing must be accompanied by a transmittal letter certifying that at the same time five copies of the application are being hand delivered to the Director, Division of Project Review, Office of Hydropower Licensing, and copies are being mailed to the resource

agencies consulted and the government offices specified in § 16.8(d)(2) of this part, including each of the following:

(i) The Regional Office of the Commission for the area in which the project is located;

(ii) The U.S. Department of the Interior, Washington, DC (6 copies for projects located in the Eastern United States, including Minnesota, Iowa, Missouri, Arkansas, and Louisiana, and 9 copies for projects located in the Western United States westward of the western boundaries of Minnesota, Iowa, Missouri, Arkansas, and Louisiana);

(iii) The U.S. Bureau of Land Management District Office for the area in which the project is located; and

(iv) The U.S. Corps of Engineers District Office for the area in which the project is located.

(2) If the application is mailed to the Commission, only an original and ten copies of the application need be sent to the Secretary, but the application must be accompanied by a transmittal letter certifying that at the same time copies of the application are being mailed to each of the offices listed in paragraphs (f)(1) (i) through (iv) of this section.

[Order 513, 54 FR 23806, June 2, 1989, as amended by Order 533, 56 FR 23154, May 20, 1991; 56 FR 61156, Dec. 2, 1991]

§ 16.11 Nonpower licenses.

(a) *Information to be provided by all applicants for nonpower licenses.* (1) An applicant for a nonpower license must provide the following information in its application:

(i) The information required by §§ 4.51 or 4.61 of this chapter, as appropriate;

(ii) A description of the nonpower purpose for which the project is to be used;

(iii) A showing of how the nonpower use conforms with a comprehensive plan for improving or developing the waterway and for other beneficial public uses as defined in section 10(a)(1) of the Federal Power Act;

(iv) A statement of any impact that converting the project to nonpower use may have on the power supply of the system served by the project, including the additional cost of power if an alternative generating source is used to offset the loss of the project's generation;